

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION No.2458 of 2006

Dated: 23.08.2006

Between:

Tetali Rama Reddy,
S/o Golla Reddy,
R/o Anaparthi,
East Godavari District, and others.

..... PETITIONERS

AND

The Revenue Divisional Officer (Sub-Collector),
Rajahmundry, East Godavari District and others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE GODA RAGHURAM

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ORDER:

Heard the eloquent submissions of Sri Ch.Seetharam, learned counsel for the petitioners and the learned Government Pleader for Revenue, appearing for the respondents, and the writ petition is disposed of on merits.

Petitioners assails the proposal of the second respondent to conduct an auction notified by a tom-tom, for grant of leasehold rights of Government lands admeasuring Ac.17.09 cents in Sy.Nos.343/1 and 2 and 346/2 and 4 of Vemulapalli Village, Mandapeta Mandal, East

Godavari District, including the fruit yielding trees of cashew nut, mango, toddy and custard apple therein.

Petitioners claim that they have purchased these lands from vendors who were assignees of Government lands, in the year 1987, a decade after coming into force of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (Act 9 of 1977, for short "the Act") which prohibits alienation of assigned lands and declares such alienations to be void and of no effect. Earlier, when the Mandal Revenue Officer concerned wanted to evict the petitioners from the lands in question, they filed W.P.No.23234 of 1996 for a direction to the respondents therein not to interfere with their possession and enjoyment of the lands.

The Mandal Revenue Officer, Mandapeta filed a counter to the said writ petition pleading that the petitioners had purchased the lands from the assignees and that they were issued notices under the Act. The petitioners submitted explanation to the show cause notices and eventually the Mandal Revenue Officer had passed an order dated 26.10.1996 directing resumption of the lands. The original assignees got themselves impleaded to the said writ petition complaining that they have not been restored possession of the lands pursuant to the first respondent's order dated 26.10.2006. The first respondent claims that possession was resumed from the petitioners on 28.10.1996. The writ petition was dismissed by this Court, by the judgment dated 16.03.2006, noticing the vague assertions in the writ petition and the concrete assertions in the counter-affidavits of the State and granting liberty to the petitioners to prefer an appellate remedy, if they so desire, along with an application for condonation of delay.

Petitioners assert to have preferred an appeal to the Revenue Divisional Officer on 20.04.2006. While so, the impugned auction

notification is issued by the first respondent for auction of the usufruct of the fruit bearing and other trees in the lands.

Learned counsel for the petitioners states that pending the appeal, the respondents cannot hold auction for grant of leases for the produce in the lands in question. This contention has to be rejected. The petitioners neither plead, urge nor demonstrate before this Court that any orders were passed in the appeal preferred by them interdicting the order of the Mandal Revenue Officer, dated 26.10.1996 directing resumption of the lands. Possession has already been resumed from the petitioners on 28.10.1996. In any event, as the petitioners are not legally entitled to be in occupation of the lands in question, in view of the order of the Mandal Revenue Officer, the petitioners cannot in law resist the conduct of auction for grant of leases in respect of the lands in question. Appropriate remedy is for the petitioners to pursue interlocutory relief in the appeals preferred by them and not by way of this writ petition.

The writ petition is misconceived and is accordingly dismissed.
No order as to costs.

23.08.2006

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